

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

IVAN BOSTON,

Plaintiff,

v.

**CIVIL ACTION NO. 2:17-CV-15
(BAILEY)**

WILLIAM BENNETT, D.D.S.;
THOMAS KANE, Director of B.O.P;
MICHAEL WEAVER, Health Service
Administrator; **TIFFANY SMITH,**
Chief Dentist; **REBECCA GROVE,**
Assistant Health Service Administrator,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Doc. 55]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on December 26, 2018, wherein he recommends plaintiff's Complaint [Doc. 1] be dismissed *with prejudice* against defendants Rebecca Grove, Thomas Kane, Michael Weaver, and William Bennett; plaintiff's Complaint be dismissed *without prejudice* against Tiffany Smith; and Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment [Doc. 29] be granted.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on December 31, 2018 [Doc. 56]. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 55] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** that the plaintiff's Complaint [Doc. 1] be **DISMISSED WITH PREJUDICE** as to Defendants Rebecca Grove, Thomas Kane, Michael Weaver, and William Bennett. Further, this Court **ORDERS** that plaintiff's Complaint [Doc. 1] be **DISMISSED WITHOUT PREJUDICE** as to Defendant Tiffany Smith. This Court further **ORDERS** that this matter be **STRICKEN** from the active docket of this Court and **DIRECTS** the Clerk to enter judgment in favor of defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* petitioner.

DATED: January 18, 2019.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE